

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

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In the Matter of:)	
)	
Request for Review of the Decision of the)	
Universal Service Administrator by)	
)	
Western Heights School District I-41)	File No. SLD-429028
Oklahoma City, OK)	SLD-431862
)	SLD-431875
)	
Federal-State Joint Board on Universal Service)	CC Docket No. <u>96-45</u>
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

To: The Commission
Chief, Common Carrier Bureau

APPLICATION FOR REVIEW

Pursuant to Subpart I of Part 54 of the Commission's rules, the Western Heights School District I-41 ("WHSD"), by its consultant, hereby seeks review of the determination of the Schools and Library Division of the Universal Service Administrative Company ("SLD"), dated August 29, 2000, rejecting WHSD's appeals of Funding Commitment Decisions denying WHSD's Funding Requests No.'s 429028, 431862 and 431875. In support thereof, the following is shown:

I. Issue

Whether the Schools and Libraries Division erred by refusing to process two appeals that Western Heights School District filed 31 days after the SLD issued Funding Commitment Decision Letters, when the 30th day fell on a Sunday.

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II. Summary and Statement of the Facts

WHSD seeks review of the SLD's determination, August 29, 2000, in the attached Administrator's Decisions on Appeal (See Exhibit A), denying WHSD's appeal requests for Funding Requests No.'s 429028, 431862 and 431875.

On August 28, 2000, WHSD filed two appeals with the Schools and Libraries Division. WHSD delivered the appeals to the SLD by Federal Express. The SLD received the appeals at 9:42 a.m. on August 28, 2000. *See* Exhibit B (Federal Express delivery confirmation w/signature). The 30th day following issuance of the SLD decisions was Sunday, August 27.

III. Discussion

In Corpus Christi Independent School District, (FCC Order Released September 11, 2000), a copy of which is attached (See Exhibit C), the Federal Communications Commission ruled that an appeal filed 31 days from the date of an adverse SLD decision is timely filed if the 30th day falls on a holiday, and that "the term 'holiday' includes Saturdays and Sundays" Corpus Christi at n.7. The FCC explained in Corpus Christi that "where the close of the 30-day period falls on a holiday, the document shall be filed on the next business day."

In this case, the 30-day period ended on Sunday, August 27. Thus, WHSD had until the close of business on Monday, August 28 to file its appeals. The FedEx confirmation shows that the SLD received the appeals on the morning of Monday, August 28. Therefore, the SLD should not have rejected the appeals as untimely filed.

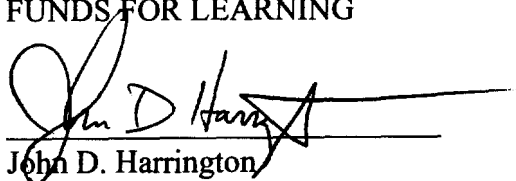
CONCLUSION

For these reasons, WHSD requests that the Administrator's Decision on Appeal in FRN's 429028, 431862 and 431875 be reversed and that the appeals be reinstated for processing consistent with FCC rules.

Respectfully submitted,

FUNDS FOR LEARNING

By:

A handwritten signature in black ink, appearing to read "John D. Harrington", is written over a horizontal line.

John D. Harrington
Consultant to Western Heights School District

Funds For Learning
229 North Broadway
Edmond, OK 73034
(405) 341-4140

EXHIBIT A



UNIVERSAL SERVICE
ADMINISTRATIVE CO.

Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, New Jersey 07981

SCHOOLS AND LIBRARIES DIVISION

Administrator's Decision on Appeal

August 29, 2000

John Harrington
Funds For Learning, LLC
229 North Broadway
Edmond, OK 73034

Re: Application Number: 197613
 Funding Year 2000 - 2001
 Date of Issuance of Funding
 Commitment Decision Letter: 7/28/00
 Date Appeal Received: 8/28/00 PM

Our records show that your appeal was received more than 30 days after the date your Funding Commitment Decisions Letter was issued (see dates above). The Federal Communications Commission (FCC) rules require applicants to submit appeals so USAC/SLD receives them within 30 days of the date that the relevant Funding Commitment Decision Letter was issued. (See "SLD Procedure for Post-Commitment Appeals" at <http://www.sl.universalservice.org/apply/10procpost.asp>.) The FCC rules do not permit the SLD to consider your appeal. If you wish to continue this process, you may submit a new appeal, stating the impediment to your filing your appeal within the original time, to the FCC at the following address:

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Schools and Libraries Division
Universal Services Administrative Company



UNIVERSAL SERVICE
ADMINISTRATIVE CO.

Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, New Jersey 07981

SCHOOLS AND LIBRARIES DIVISION

Administrator's Decision on Appeal

August 29, 2000

John Harrington
Funds For Learning, LLC
229 North Broadway
Edmond, OK 73034

Re: Application Number: 198790
 Funding Year 2000 - 2001
 Date of Issuance of Funding
 Commitment Decision Letter: 7/28/00
 Date Appeal Received: 8/28/00 PM

Our records show that your appeal was received more than 30 days after the date your Funding Commitment Decisions Letter was issued (see dates above). The Federal Communications Commission (FCC) rules require applicants to submit appeals so USAC/SLD receives them within 30 days of the date that the relevant Funding Commitment Decision Letter was issued. (See "SLD Procedure for Post-Commitment Appeals" at <http://www.sl.universalservice.org/apply/10procpost.asp>.) The FCC rules do not permit the SLD to consider your appeal. If you wish to continue this process, you may submit a new appeal, stating the impediment to your filing your appeal within the original time, to the FCC at the following address:

Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Schools and Libraries Division
Universal Services Administrative Company

EXHIBIT B



FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone: 901-369-3600

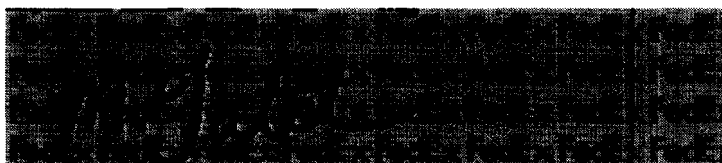
9/27/2000

Dear Customer:

Here is the proof of delivery for the shipment with tracking number **791133982356**. Our records reflect the following information.

Delivery Information:

Signed For By: M.TATCH



Delivery Location: 110 S JEFF

Delivery Date: August 28, 2000

Delivery Time: 0942

Shipping Information:

Tracking No: 791133982356

Ship Date: August 26, 2000

Recipient:

LETTER OF APPEAL
SCHOOLS & LIBRARIES DIVISION
100 S. JEFFERSON RD.
WHIPPANY, NJ 07981
US

Shipper:

FUNDS FOR LEARNING
FUNDS FOR LEARNING
2111 WILSON BLVD STE 700
ARLINGTON, VA 222013052

Shipment Reference Information:

WH PY3 DELL SVR APPEALS

Thank you for choosing FedEx Express. We look forward to working with you in the future.

FedEx Worldwide Customer Service
1-800-Go-FedEx®
Reference No.: R2000092700020833911

EXHIBIT C

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)

Request for Review of the)
Decision of the)
Universal Service Administrator by)

Corpus Christi Independent School District)
Corpus Christi, Texas)

File No. SLD-180054

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

CC Docket No. 97-21

ORDER

Adopted: September 8, 2000

Released: September 11, 2000

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration Letters of Appeal filed by Corpus Christi Independent School District (Corpus Christi), Corpus Christi, Texas, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).¹ Corpus Christi seeks review of SLD's refusal to consider Corpus Christi's appeal to SLD on the grounds that it was untimely filed. For the reasons set forth below, we grant Corpus Christi's appeal.

2. SLD issued a Funding Commitment Decision Letter on May 5, 2000, denying Corpus Christi's requests for discounted services under the schools and libraries universal service support mechanism.² Specifically, SLD denied Corpus Christi's request for discounts for internal connections. Funding Request Number (FRN) 419801. On June 5, 2000, Corpus Christi filed an appeal of SLD's decision to deny FRN 419801.³ On June 8, 2000, SLD issued an Administrator's Decision on Appeal indicating that it would not consider Corpus Christi's appeal

¹ Letter from Susan R. Utter, Corpus Christi Independent School District, to Federal Communications Commission, filed June 16, 2000 (Letter of Appeal).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Susan R. Utter, Corpus Christi Independent School District, dated May 5, 2000 (Funding Commitment Decision Letter).

³ Letter from Susan R. Utter, Corpus Christi Independent School District, to Schools and Libraries Division, Universal Service Administrative Company, filed June 5, 2000.

because it was received more than 30 days after the Funding Commitment Decision Letter was issued.⁴ Corpus Christi subsequently filed the instant Letter of Appeal with the Commission.

3. Under section 54.720 of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision as to which review is sought.⁵ Documents are considered to be filed with the Commission or SLD only upon receipt.⁶ The 30-day deadline contained in section 54.720 of the Commission's rules applies to all requests for review filed by a party affected by a decision issued by the Administrator. Section 1.4(j) of the Commission's rules, however, provides that in cases where the close of the 30-day period falls on a holiday, the document shall be filed on the next business day.⁷ Because the close of the 30-day period after the issuance of the May 5, 2000 Funding Commitment Decision Letter fell on June 4, 2000, a holiday, Corpus Christi's June 5, 2000 appeal should have been considered timely filed. Accordingly, we grant Corpus Christi's Letter of Appeal and direct SLD to review Corpus Christi's appeal to SLD.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Letter of Appeal filed by Corpus Christi Independent School District, Corpus Christi, Texas on June 16, 2000, IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION



Sharon L. Webber
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

⁴ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Susan R. Utter, Corpus Christi Independent School District, dated June 8, 2000 (Administrator's Decision on Appeal).

⁵ 47 C.F.R. § 54.720.

⁶ 47 C.F.R. § 1.7.

⁷ 47 C.F.R. § 1.4(j). The term "holiday" includes Saturdays and Sundays. 47 C.F.R. § 1.4(c)(1).